



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MARY F. MCTIGUE
DIRECTOR

August 4, 1994
AQ-94-25

Anthony W. Ravosa, Jr.
5 Elm Street
Springfield, MA 01013

Re: Legal Expenses

Dear Mr. Ravosa:

This letter is in response to your June 22, 1994 request for an advisory opinion regarding whether your political committee may pay for certain legal expenses.

You state that you have been a member of the Springfield City Council since 1989. You also state that on December 7, 1993, the State Ethics Commission ("the Commission") voted to initiate a Preliminary Inquiry into whether you violated several sections of M.G.L. c. 268A. In particular, you have indicated that the Commission is investigating allegations that you violated c. 268A by: (1) acting as your father's agent in particular matters in which the City of Springfield was a party or had a direct and substantial interest; (2) voting as a City Councilor on the appointments of Springfield License Commission members; (3) having a financial interest in your father's contracts with the Springfield Redevelopment Authority, including office space leases and purchase and sale agreements of certain parcels of real estate; and (4) using your position as City Councilor to retaliate against the Springfield Redevelopment Authority, the Community Development Department and certain officials. The allegations have been publicized in all the major media in Springfield, including WHYN radio, WWLP TV, WGGB TV and the Springfield Union News.

You further state that the negative publicity and the potential negative impact upon your future campaigns prompted you to hire an attorney. The attorney has met regularly with you to discuss the case. He has also prepared a detailed written response to the Commission setting forth your defenses and he accompanied you when you voluntarily gave a statement to the Commission. You have asked whether your political committee may pay for the attorney fees incurred.

Section 6 of M.G.L. c. 55 states, in pertinent part:

[A] political committee, duly organized, may receive, pay and expend money or other things of value for the enhancement of the political future of the candidate . . . for which the committee was organized so long as such expenditure is not primarily for the candidate's or any other person's personal use . . .

The regulations promulgated pursuant to section 6 prohibit the payment of expenses relative to civil suits or administrative proceedings, with certain exceptions. Specifically, 970 C.M.R. 2.06(6)(a)(3)(c) exempts "expenses relative to necessary legal action to protect or further the interests of the political committee."

This office has previously advised that a candidate's committee may generally make expenditures in connection with State Ethics Commission investigations (see AO-91-08 and AO-92-18). The Commission's investigation in this case arises out of the performance of your responsibilities as a public official. However, the question posed by the regulations is whether the legal expenses associated with the administrative proceeding are "necessary" and designed "to protect or further the interests of the political committee."

This office's approach in AO-91-08 and AO-92-18 is instructive where there has been a publicized filing of a complaint with the State Ethics Commission:

Clearly, the fundamental issues of integrity and reputation are immediately called into question by a Commission investigation. The elected official usually must respond to such issues in the public forum while also responding to the specific requests of the Commission. A successful public response to the investigation, or equally, an unsuccessful response, would certainly have a significant impact on the election campaign of a candidate.

By calling into question a candidate's reputation and integrity, an Ethics Commission review, if made public, is inextricably related to one's political future. As such, legal expenditures are "necessary" or designed "to protect or further the interests of the political committee," and are therefore in compliance with 970 C.M.R. 2.06(6)(a)(3)(c).

Please note, however, that it is not always the case that a political committee may pay for legal expenses relating to a State Ethics Commission investigation. The extent to which the following factors have been satisfied must be considered:

1. Whether a complaint was filed with the State Ethics Commission.
2. Whether significant publicity through print or broadcast media has resulted.
3. Whether the candidate's future campaigns

would likely be negatively affected by the publicity.

These factors are offered to provide guidance to a political committee seeking to pay for its candidate's legal expenses incurred due to a Commission review or investigation. Under this analysis it is apparent, based upon the facts you have presented, that your committee satisfies the conditions outlined by the three factors:

For the reasons set forth above, I believe that expenditures by your political committee to reimburse you for legal expenses arising from the State Ethics Commission investigation would be permitted under the campaign finance law.

This opinion has been rendered solely on the basis of representations made in your letter and solely in the context of M.G.L. c. 55. Please do not hesitate to contact the office if you have any additional questions.

Very truly yours,


Mary F. McTigue
Director

MFM/cp